

IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE:	§	CASE NO. 11-_____
	§	
IRWIN MORTGAGE CORPORATION,	§	
	§	
	§	Chapter 11
	§	Judge _____
Debtor and	§	
Debtor-in-Possession.	§	
	§	

**EX PARTE MOTION OF IRWIN MORTGAGE CORPORATION FOR AN ORDER  
CONVENING HEARING ON FIRST DAY PLEADINGS**

Irwin Mortgage Corporation, the chapter 11 debtor and debtor-in-possession (the "Debtor" or "IMC"), moves the Court for an order convening a hearing at least twenty-six (26) days after the Petition Date (as defined below), to consider the First Day Pleadings (as defined below) pursuant to section 105 of the Bankruptcy Code and Rule 9073-1 of the Local Bankruptcy Rules for this Court (the "Local Rules") (the "Motion"). The Debtor submits the attached Memorandum and the Caruso Declaration in support of this Motion.

Respectfully submitted,  
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*Proposed Counsel For The Debtor And Debtor-in-Possession*

## **MEMORANDUM IN SUPPORT**

### **I. JURISDICTION AND BACKGROUND**

1. This Court has jurisdiction over this Motion under 28 U.S.C. § 1334. Venue of this proceeding is proper pursuant to 28 U.S.C. § 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

2. The statutory bases for the relief requested herein are sections 105 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the “Bankruptcy Code”) and the Local Rules.

3. Simultaneously with the filing of this Motion on the date hereof (the “Petition Date”), the Debtor commenced its reorganization case by filing a voluntary petition for relief under the Bankruptcy Code.

4. The Debtor is continuing in possession of its properties and is managing its business as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

5. IMC is an Indiana corporation whose principal place of business is in Dublin, Ohio.

6. For a number of years, IMC originated, purchased, sold, and serviced conventional and government agency backed residential mortgage loans throughout the United

States. However, in 2006 and continuing into early 2007, IMC sold substantially all of its assets, including its mortgage origination business, its mortgage servicing business, and its mortgage servicing rights portfolio, to a number of third party purchasers. As a result of those sales, IMC terminated its operations and has been winding down since 2006.

7. Additional information regarding the Debtor's business, capital structure, and the circumstances leading to this Chapter 11 filing is contained in the Declaration of Fred C. Caruso In Support Of First Day Pleadings (the "Caruso Declaration") filed contemporaneously with this Motion.

## **II. RELIEF REQUESTED**

### **A. Pending First Day Pleadings<sup>1</sup>**

8. Contemporaneously with the filing of this Motion, the Debtor, is filing, among other things, the following motions and applications (collectively, the "First Day Pleadings"):<sup>2</sup>

<b>Motion/Application</b>	<b>Nature of Relief Requested</b>
Debtor's Motion For Extension Of Time To File Schedules And Statements	The Debtor requests an order from the Court extending until August 4, 2011 deadline to file its Schedules and Statements.
Debtor's Motion For An Order Waiving The Trustee Guidelines And the Section 345 U.S. Trustee Guidelines	The Debtor requests an order the Court waiving certain provisions of the Trustee Guidelines with respect to certain "DIP" accounts and with respect to the requirements of Bankruptcy Code section 345

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<sup>1</sup> On the Petition Date, the Debtor also filed a Motion For An Order Rejecting The Fishers Leases, Effective June 30, 2011(the "Lease Rejection Motion"). By separate motion, the Debtor is requesting that the Court shorten the objection period and schedule an expedited hearing on the Lease Rejection Motion.

<sup>2</sup> Capitalized terms used in the description of the First Day Pleadings without definition shall have the meanings attributed to them in the First Day Pleadings.

Motion/Application	Nature of Relief Requested
Debtor's Motion for Order Approving The Case Management Procedures	The Debtor requests an order from the Court approving the proposed Case Management Procedures to establish certain notice, scheduling, case management and administrative procedures
Debtor's Motion For Order Establishing Procedures For The Interim Compensation And Reimbursement Of Expenses Of The Professionals	The Debtor requests an order from the Court approving proposed procedures for the compensation and reimbursement of the Professionals on a monthly basis
Debtor's Motion For An Order Authorizing The Employment And Compensation Of Ordinary Course Professionals	The Debtor requests an order from the Court authorizing Debtor to continue to utilize and compensate ordinary course professionals, including attorneys, to assist the Debtor in its business matters which are unrelated to the administration of the Chapter 11 Case.
Debtor's Motion For Waiver Of Compliance With LBR 9013-2 In Connection With The Debtor's First Day Pleadings	The Debtor requests (a) a waiver of the twenty (20) page limitation and the requirement of a table of contents and summary set forth in LBR 9013-2(a); and (b) a waiver of LBR 9013-2(b) to permit the Debtor to cite unreported opinions and orders ("Unreported Orders") without providing copies to all parties
Application of Debtor Pursuant to Fed. R. Bankr. P. 2014(A) For An Order Under Section 327(A) Of The Bankruptcy Code Authorizing The Employment And Retention Of Bailey Cavalieri, LLC Nunc Pro Tunc As Counsel For The Debtor And Debtor In Possession	The Debtor requests an order approving the employment of Bailey Cavalieri, LLC as counsel for the Debtor
Motion Of Debtor For An Order Authorizing The Continued Use Of Development Specialists, Inc. To Provide Wind Down Management	The Debtor requests authority to continue to utilize the services of Development Specialists, Inc. to continue to provide wind down management services.

Motion/Application	Nature of Relief Requested
Debtor's Application For An Order (A) Authorizing The Debtor To Mail All Notices And (B) Approving The Agreement With Kurtzman Carson Consultants LLC As Claims, Noticing, And Solicitation Agent	The Debtor requests authority to utilize the services of KCC to act as claims, noticing, and solicitation agent

### **B. Reasons For Hearing**

9. As set forth in detail in each of the pleadings, the relief requested in the First Day Pleadings are essential first steps in the efficient commencement of this Chapter 11 Case, thereby facilitating the Debtor's prompt and efficient liquidation. Accordingly, the Debtor respectfully requests that the Court schedule such hearing at least twenty-six (26) days after the Petition Date.

### **C. Parties Affected By The Relief Requested In The First Day Pleadings**

10. The parties affected by the relief requested in the First Day Pleadings will be the United States Trustee, the top 25 creditors in this case, and certain other interested parties. Under the proposed schedule, the Debtor is not requesting that any party's response time be shortened with respect to the First Day Pleadings.

### **D. Proposed Method Of Notification Of Hearing**

11. The Debtor proposes to serve the order granting this Motion substantially in the form attached hereto as Exhibit A and incorporated herein by reference, either electronically through the Court's ECF System or by regular US mail on the United States Trustee, the top 25 creditors in this case, and certain other interested parties.

### **E. Summary Of Evidence**

12. The evidence presented at the hearing will establish the allegations contained in each of the First Day Pleadings and the need for the relief requested.

WHEREFORE, the Debtor respectfully requests that the Court issue an order: (i) setting a hearing on the First Day Pleadings approximately twenty-six (26) days after the Petition Date; (ii) finding that service of the Order approving this Motion either electronically or by regular mail shall be sufficient and adequate notice under the circumstances and in full compliance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules of this Court; and (iii) granting such other and further relief as the Court may deem proper. A proposed order is attached hereto as Exhibit A.

Respectfully submitted,

/s/ Matthew T. Schaeffer

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	§	Chapter 11
	§	Judge _____
Debtor and	§	
Debtor-in-Possession.	§	
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**ORDER APPROVING *EX PARTE* MOTION OF IRWIN MORTGAGE CORPORATION  
FOR AN ORDER CONVENING HEARING ON CERTAIN FIRST DAY PLEADINGS  
(DOC.\_\_\_\_)**

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This matter is before the Court upon the *Ex Parte* Motion of Irwin Mortgage Corporation.  
(the "Debtor") for an Order Convening Hearing on First Day Pleadings filed on July 8, 2011  
(doc. \_\_\_\_).<sup>1</sup>

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<sup>1</sup> Capitalized terms not otherwise defined herein have the same meanings given to them in the Motion.

Upon review of the Motion, this Court FINDS and CONCLUDES that:

A. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

B. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

C. The Motion is in full compliance with all applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules of this Court.

D. The legal and factual bases set forth in the Motion establish just cause for the relief requested and the Motion is appropriate, well-taken and should be approved. It is therefore

**ORDERED, ADJUDGED AND DECREED** that the Motion is GRANTED and APPROVED; and it is further

**ORDERED, ADJUDGED AND DECREED** that the Court hereby schedules a hearing (the "Hearing") on the First Day Pleadings set forth below:

- Debtor's Motion For Extension Of Time To File Schedules And Statements
- Debtor's Motion For An Order Waiving The Trustee Guidelines And the Section 345 U.S. Trustee Guidelines
- Debtor's Motion for Order Approving The Case Management Procedures
- Debtor's Motion For Order Establishing Procedures For The Interim Compensation And Reimbursement Of Expenses Of The Professionals
- Debtor's Motion For An Order Authorizing The Employment And Compensation Of Ordinary Course Professionals
- Debtor's Motion For Waiver Of Compliance With LBR 9013-2 In Connection With The Debtor's First Day Pleadings
- Application of Debtor Pursuant to Fed. R. Bankr. P. 2014(A) For An Order Under Section 327(A) Of The Bankruptcy Code Authorizing The Employment And Retention Of Bailey Cavalieri, LLC Nunc Pro Tunc As Counsel For The Debtor And Debtor In Possession



- Motion Of Debtor For An Order Authorizing The Continued Use Of Development Specialists, Inc. To Provide Wind Down Management
- Debtor's Application For An Order (A) Authorizing The Debtor To Mail All Notices And (B) Approving The Agreement With Kurtzman Carson Consultants LLC As Claims, Noticing, And Solicitation Agent

The Hearing shall be held as follows:

Date: \_\_\_\_\_, \_\_\_\_, 2011  
Time: at \_\_\_\_\_ .m.  
Place: in Courtroom \_\_\_\_\_  
United States Bankruptcy Court  
170 North High Street  
Columbus, Ohio 43215.

**ORDERED, ADJUDGED AND DECREED** that the Debtor shall provide serve a copy of this Order to all parties as described in the Motion.

**IT IS SO ORDERED**

Copies to:

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